IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4625 OF 2006

Sushil Suresh Jadhav ..Applicant

Vs.

The State of Maharashtra and anr. ..Respondents

Mr. H.K. Prem for applicant.
Mr. U.V. Nikam, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : January 08, 2007.

P.C.:

1. Heard the learned counsel for the applicant who came to be arrested on 6/12/2006 as he was found in the company of Swati, the daughter of the complainant Shri Santosh Yeshwant Sugdare. Swati was to be married on 26/11/2006 with another boy and the marriage invitations were already distributed. However, she was reported to be missing from 21/11/2006 and, therefore, C.R. No.454 of 2006 came to be lodged by her father against the applicant alleging an offence punishable under Section 363 of

IPC with the Khar Police Station. The police claim that the applicant and Swati were found together in the ground floor of a building at Panvel and Swati was handed over to the complainant whereas applicant was taken in custody. He is remanded to judicial custody on 13/12/2006 and his bail application came to be rejected by the learned Additional Sessions Judge, Greater Mumbai on 21/12/2006.

2. Though the police report states that Swati was, on medical examination, found to have been subjected to sexual intercourse, it clearly comes out from the said report that the applicant and Swati got married in some Temple and stayed together as husband and wife for few days. The charge has been subsequently amended to Section 366 of IPC, which is non-bailable. The learned Sessions Judge rejected the bail application on the ground that the applicant was in MCR since 13/12/2006 and the investigation was pending.

3. Admittedly, Swati is of the age of above 16 years and prima facie it appears that she went with

the applicant and disappeared from 21/11/2006 on her own, inspite of the fact that she was to be married on 26/11/2006 with another boy. This is a fit case where the applicant deserves to be released on bail, more so when the I.O.'s report states that the sexual intercourse was by consent.

4. Hence this application is allowed and it is directed that the applicant be released on bail on furnishing a bond in the sum of Rs.3000/- with one solvent surety in the like amount and on the further condition that he will report to the Khar Police Station once in two weeks till the chargesheet is filed.

(B.H. Marlapalle,J.)